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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/761,291	01/22/2004	Hajime Ohno	03500.017865.	3179
5514 7590 07/13/2007 FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112			EXAMINER SEYE, ABDOU K	
			ART UNIT 2194	PAPER NUMBER
			MAIL DATE 07/13/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/761,291

Applicant(s)

OHNO, HAJIME

Examiner

Abdou Karim Seye

Art Unit

2194

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 22 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
WILLIAM THOMSON  
SUPERVISORY PATENT EXAMINER

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 02/24/2004.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This is the initial office action based on the application filed on January 22, 2004.

Claims 1-10 are currently pending and have been considered below.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 6, 9 and 10 are non statutory. The claimed apparatus which performs a data process, is constructed of software program instructions. Thus, the claimed system comprising of ("reception means for receiving the delivery data", "activation means for activating a program" and "judgment means for judging predetermined data", "issuance means for issuing an event " " execution means for executing a process" and "synthesis means for synthesizing form data ") are considered as software program containing machine-executable instructions, per se (and not associated with any physical structure). See MPEP 2106.01 - I: "...computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized...".

Claims 7-8 are also rejected for failing to remedy the deficiencies of the above rejected non statutory claim 6.

Claims 11, 14 and 15 are non statutory. The claimed product is constructed of software program instructions containing machine-executable instructions, per se (and not associated with any physical structure). See MPEP 2106.01 - I: "...computer programs claimed as computer listings per se, i.e., the descriptions or expressions of the programs, are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer which permit the computer program's functionality to be realized...".

Dependent claims 12-13 are also rejected for failing to remedy the deficiencies of the above rejected non statutory claim 11.

Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that forms the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-10 are rejected under 35 U.S.C. 102(e) as being anticipated by **Tanaka (US 20030072023)**.

Claims 1, 5-6, 10-11 and 15, Tanaka teaches, a data processing system, product and method which is executed in an information processing apparatus for performing a data process based on delivery data transmitted from an external information processing apparatus, said method comprising:

a reception step of receiving the delivery data transmitted from the external information processing apparatus (abstract; FIG. 3, paragraph 63; received messages/information from a remote PC 320);

an activation step of activating a program corresponding to the delivery data received in said reception step (FIG. 3 :111-114; applications program);

a judgment step of judging whether or not predetermined data is included in the delivery data, by analyzing the delivery data received in said reception step (FIG. 9 : S903; paragraph 73-74 and 81-82);

an issuance step of issuing an event notification when it is judged in said judgment step that the predetermined data is included in the delivery data (paragraph 10; key event information); and

an execution step of executing a process to be executed by the program activated in said activation step and corresponding to the event notification issued in said issuance step (FIG 14; thread execution; paragraph 10 and 85; applications/functions executed).

Claims 2, 7 and 12, Tanaka further teaches,

a registration step of registering the process included in the program activated in said activation step; and an event judgment step of judging whether or not the process corresponding to the event notification issued in said issuance step has been registered, wherein, when it is judged in said event judgment step that the process corresponding to the event notification issued in said issuance step has been registered, the process corresponding to the event notification is executed (paragraph 89; registering applications/key event information ).

Claims 3, 8 and 13, Tanaka teaches,

wherein, when the predetermined data represents an executable program, the executable program is activated in said execution step (paragraph 10 and 85; applications/functions executed).

Claims 4, 9, and 14, A print control method which is executed in a client apparatus for performing a print process based on delivery data received from a server apparatus, said method comprising:

a reception step of receiving the delivery data at least including form data and data to be synthesized to the form data, from the server apparatus (abstract; FIG. 3, paragraph 63; received messages/information from a remote PC 320); an activation step of activating a program corresponding to the delivery data received in said reception step (FIG. 3 : 111-114; applications program); a judgment step of judging whether or not predetermined data is included in the delivery data, by analyzing the delivery data received in said reception step (FIG. 9 : S903; paragraph 73-74 and 81-82); an issuance step of issuing an event notification when it is judged in said judgment step that the predetermined data is included in the delivery data (paragraph 10; key event information); an execution step of executing a process to be executed by the program activated in said activation step and corresponding to the event notification issued in said issuance step (FIG. 14; thread execution; paragraph 10 and 85; applications/functions executed); and a synthesis step of, when the process corresponding to the event notification issued in said issuance step is an image generation step of synthesizing the form data and the data to be synthesized to the form data, synthesizing the form data and the data to be synthesized to the form data ( FIG. 3/14: 306; paragraph 50, 62 and 79). These elements of Tanaka's reference meet the claimed limitation of these claims.

### ***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure.

Friedman et al. (US20040205138) discloses amthod and apparatus for creation, personalization, and fulfillment of greeting cards with gift cards.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Exr. Abdou Seye whose telephone number is (571) 270-1062. The examiner can normally be reached Monday through Friday from 7:30 a.m. to 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, contact the examiner's supervisor, William Thomson at (571) 272-3718. The fax phone number for formal or official faxes to Technology Center 3600 is (571) 273-8300. Draft or informal faxes, which will not be entered in the application, may be submitted directly to the examiner at (571) 273-6722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group Receptionist whose telephone number is (571) 272-3600.

AKS  
June 25, 2007

  
WILLIAM THOMSON  
SUPERVISORY PATENT EXAMINER